## REMARKS

## 35 USC §§112

Claims 1, 3, 5, 7-15, 18, 26-31 and 37 are rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards at the invention. The Applicant respectfully disagrees and requests that the Examiner reconsider.

Claim 1: the term "significant" and the term "strongly" have been deleted from claim 1. One of ordinary skill in the art should be able to review the claim and specification and determine proper parameters.

Claim 13: this claim in amended herein and new claim 59 added.

## 35 USC §103

Claims 1, 4-15 and 27-28 are rejected under 35 USC §103(a) as being unpatentable over Kennedy et al (US 6506497) in view of Putzer (US Patent Publication 2004/0122197).

Claims 1, 3, 11-13, 26-28 and 31 are rejected under 35 USC §103(a) as being unpatentable over Putzer (US Patent Publication 2004/0122197) in view of Baldwin et al. (US Patent Publication 2002/0068181).

Claims 1 and 37 are rejected under 35 USC §103(a) as being unpatentable over Kennedy et al (US 6506497) in view of Putzer (US Patent Publication 2004/0122197), and further in view of Dammel et al. (US Patent Publication 2004/0166434).

The Applicant respectfully disagrees.

Claim 1 recites:

"An absorbing composition comprising at least one inorganic-based compound, at least one organic-based absorbing compound, and at least one material modification agent, wherein the at least one material modification agent comprises at least one adhesion promoter, at least one crosslinking agent, at least one porogen, at least one catalyst, at least one capping agent, at least one pH tuning agent or a combination thereof, wherein the at least one adhesion promoter comprises APTEOS triflate, APTEOS methanesulfonate, APTEOS nitrate, APTEOS nfbs, ammonium triflate, ammonium nfbs, ammonium methanesulfonate, ammonium nitrate, TMAH triflate, TMAH nfbs, TMAH methanesulfonate, TMAA, TMAN, TMAH nitrate or a combination thereof, wherein the at least one adhesion promoter does not initiate crosslinking activity in the composition, and wherein the absorbing compound absorbs light over at least an approximately 0.5 nm wide wavelength range at wavelengths less than 375 nm." (emphasis added)

After discussing this case in full with the inventors, it is clear that the Putzer publication is quite different from the current application, and therefore, claim 1 is herein amended to clarify the difference. The Putzer publication states:

> "This invention relates to a polyorganosiloxane composition, a method of combining the components and **a method of vulcanizing** said polyorganosiloxane composition, the vulcanized composition obtainable thereby, composite materials containing a substrate and said vulcanized composition as well as the use of the polyorganosiloxane composition." (emphasis added)

In addition, paragraphs [0039]-[0046] explicitly disclose that the adhesion promoters are utilized by inducing crosslinking between the components of the composition, wherein the adhesion promoters are crosslinking agents.

The Examiner points to Table 2 to show that aminopropyltriethoxysilane is used in the Putzer reference, but the Examiner is completely missing the fact that in Table 3, the aminopropyltriethoxysilane is shown as failing the adhesion tests, as compared to the inventive composition A, and therefore, Putzer would absolutely teach against adding aminopropyltriethoxysilane as an adhesion promoter for those types of vulcanized compounds and compositions.

In addition, the compositions disclosed in Putzer are transparent and do not contain absorbing compounds. Please note in Column 3 of the issued patent (US 7211330) that Putzer says: "The compositions made available by the present invention should therefore be transparent, odorless polyorganosiloxane compositions, which are neutral, room temperature vulcanizing compositions, in particular in the case of catalyst systems containing tin."

Based on the previous two paragraphs – there is absolutely nothing in Putzer that would teach, suggest or motivate one of ordinary skill in the art to use this reference to

combine with the Kennedy, Baldwin or Dammel references to produce the current claims and present application. The Examiner must show a motivation or reason to combine – and that motivation or reason is just not present. And, as a matter of fact, Putzer teaches against many of the inventive concepts in the current application.

Claim 1 is amended herein to include the provision "wherein the at least one adhesion promoter does not initiate crosslinking activity in the composition". This provision is supported and described in full on page 20 of the current application:

> "In some contemplated embodiments, the at least one adhesion promoter comprises at least one of the following characteristics: a) is thermally stable after heat treatment, such as baking, at temperatures generally used for electronic and semiconductor component manufacture (see Example 2 and **Figures 2-5**); b) has a relatively low catalytic ability, in that the donor does not initiate significant crosslinking activity in the composition to which it is added; c) is relatively neutral, so that the composition retains a low pH; d) is acidic, in order to lower the pH of the composition; e) does not initiate or propagate reactions that increase the molecular weight of species in the composition to which it is added; f) can surprisingly act as an adhesion promoter by promoting electrostatic and coulombic interactions between layers of materials, as opposed to conventionally understood Van derWaals interactions."

The chemistry in the current application is completely different from the chemistry in the Putzer application, specifically the chemistry of the current application is driven by the bases and the amines are both soluble and minimally reactive (certainly not crosslinking). The Putzer chemistry is the opposite, wherein it specifically discloses significant (and desired) crosslinking and is driven by acid chemistry.

Therefore, Putzer cannot possibly anticipate claim 1 of the current application. In

addition, Putzer in combination with Kennedy and/or Dammel does not cure the obvious deficiency of these references in comparison with amended claim 1. Therefore, claim 1 is both novel and patentable over Putzer alone or in combination with Kennedy and/or Dammel.

Claims 1, 3, 7, 11-13, 18, 26, 29-31 and 37 are rejected under 35 USC §103(a) as being unpatentable in view of US Patent 6677392 (Ravichandran et al) in view of Hayashi et al (US Patent Publication No. 2003/0091838), and further in view of Baldwin et al. (US Patent Publication 2002/0068181). The Applicant respectfully disagrees.

Claim 1 recites:

"An absorbing composition comprising at least one inorganic-based compound, at least one organic-based absorbing compound, and at least one material modification agent, wherein the at least one material modification agent comprises at least one adhesion promoter, at least one crosslinking agent, at least one porogen, at least one catalyst, at least one capping agent, at least one pH tuning agent or a combination thereof, wherein the at least one adhesion promoter comprises APTEOS triflate, APTEOS methanesulfonate, APTEOS nitrate, APTEOS nfbs, ammonium triflate, ammonium nfbs, ammonium methanesulfonate, ammonium nitrate, TMAH triflate, TMAH nfbs, TMAH methanesulfonate, TMAA, TMAN, TMAH nitrate or a combination thereof, wherein the at least one adhesion promoter does not initiate crosslinking activity in the composition, and wherein the absorbing compound absorbs light over at least an approximately 0.5 nm wide wavelength range at wavelengths less than 375 nm." (emphasis added)

Claim 1 recites an absorbing composition that comprises several components recited above, including that the absorbing compound absorbs light over at least an approximately 0.5 nm wide wavelength range at wavelengths less than 375 nm. According to the Examiner, this provision is patentable in view of the Ravichandran reference, the Hayashi reference and the combination thereof. It appears as though the Examiner is using hindsight reconstruction by throwing the Baldwin publication into the cited references. This fact is apparent in the reference to the Putzer publication on page 8 of the Office Action when that reference was not cited in the rejection. The Baldwin

publication does not disclose the use of an at least one adhesion promoter, including those recited in claim 1. The Baldwin publication also does not mention crosslinking ability. The Baldwin publication really adds nothing to the analysis at this point. The Applicant respectfully requests that the Examiner contact the undersigned attorney of record to clarify this point and to discuss this rejection.

Therefore, Ravichandran in combination with Hayashi and/or Baldwin does not render unpatentable claim 1 of the present application. Further, Ravichandran in combination with Hayashi and/or Baldwin does not render unpatentable claims 3, 7, 11-13, 18, 26, 29-31 and 37 by virtue of their dependency on claim 1.

## REQUEST FOR ALLOWANCE

Claims 1, 3, 5-15, 18, 26-31, 37 and 59 are pending in this application. The applicants request allowance of all pending claims.

Respectfully submitted,

Buchalter Nemer, A Professional Corp.

Dated: November 30, 2009 By:

Sandra P. Thompson, PhD, Esq.
Reg. No. 46,264
E-mail: sthompson@buchalter.com
Direct Line: 949-224-6282

ATTORNEYS FOR APPLICANT(S):

Buchalter Nemer, A Professional Corporation
18400 Von Karman Ave., Suite 800
Irvine, CA 92612
Fax: 949-224-6203